

109TH CONGRESS  
1ST SESSION

# H. R. 4042

To amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare Program.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 2005

Mr. HERGER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Ambulatory Surgical  
5       Center Medicare Payment Modernization Act of 2005”.

1 **SEC. 2. MEDICARE PAYMENT FOR AMBULATORY SURGICAL**  
2 **CENTER SERVICES.**

3 (a) IN GENERAL.—Section 1833(i) of the Social Se-  
4 curity Act (42 U.S.C. 1395l(i)) is amended to read as fol-  
5 lows:

6 “(i)(1) Payment shall be made under this part in the  
7 amount specified under paragraph (2) for facility services  
8 furnished to an individual in an ambulatory surgical cen-  
9 ter in connection with any outpatient surgical procedure  
10 covered under this part as a hospital outpatient depart-  
11 ment service, except for those procedures that the Sec-  
12 retary designates, in consultation with appropriate trade  
13 and professional organizations (including those having di-  
14 rect experience with ambulatory surgical centers) as pos-  
15 ing a significant safety risk or requiring an overnight stay  
16 when performed in ambulatory surgical centers. Not less  
17 frequently than once every two years the Secretary shall  
18 review and, may, after public comment, make appropriate  
19 adjustments to this list of procedures excluded from cov-  
20 erage when performed in ambulatory surgical centers as  
21 the Secretary deems necessary.

22 “(2)(A) Subject to subparagraphs (B) and (C), the  
23 amount of payment to be made under this subsection for  
24 facility services furnished to an individual in an ambula-  
25 tory surgical center in accordance with paragraph (1) shall  
26 be equal to 75 percent of the fee schedule amount deter-

1 mined under paragraph (3)(A) of subsection (t) for pay-  
2 ment of the same service furnished in hospital outpatient  
3 departments, as adjusted under paragraphs (4)(A), (6),  
4 and (15) of such subsection, less a 20 percent beneficiary  
5 copayment.

6 “(B) For covered ambulatory surgical center services  
7 furnished on or after January 1, 2008, and before Janu-  
8 ary 1, 2012, for which the ambulatory surgical center pay-  
9 ment amount payable under this subsection in 2007 (in  
10 this subsection referred to as the ‘2007 ASC payment  
11 amount’) is less than 75 percent of the hospital OPD fee  
12 schedule amount under subsection (t) in 2007 for the  
13 same services, the amount of payment under this sub-  
14 section shall be calculated as follows:

15 “(i) For services furnished during 2008, the  
16 amount shall be equal to the sum of—

17 “(I) 80 percent of the 2007 ASC payment  
18 amount, as increased by the percentage increase  
19 in the consumer price index for all urban con-  
20 sumers (United States city average) as esti-  
21 mated by the Secretary for the 12-month period  
22 ending with December 31, 2006; and

23 “(II) 20 percent of the payment amount  
24 under paragraph (2)(A) for 2008.

1           “(ii) For services furnished during 2009, the  
2           amount shall be equal to the sum of—

3                   “(I) 60 percent of the 2007 ASC payment  
4                   amount as increased under clause (i)(I) and as  
5                   further increased by the percentage increase in  
6                   the consumer price index for all urban con-  
7                   sumers (United States city average) as esti-  
8                   mated by the Secretary for the 12-month period  
9                   ending with December 31, 2007; and

10                   “(II) 40 percent of the payment amount  
11                   under paragraph (2)(A) for 2009.

12           “(iii) For services furnished during 2010, the  
13           amount shall be equal to the sum of—

14                   “(I) 40 percent of the 2007 ASC payment  
15                   amount as increased under clauses (i)(I) and  
16                   (ii)(I) and as further increased by the percent-  
17                   age increase in the consumer price index for all  
18                   urban consumers (United States city average)  
19                   as estimated by the Secretary for the 12-month  
20                   period ending with December 31, 2008; and

21                   “(II) 60 percent of the payment amount  
22                   under paragraph (2)(A) for 2010.

23           “(iv) For services furnished during 2011, the  
24           amount shall be equal to the sum of—

1           “(I) 20 percent of the 2007 ASC payment  
2           amount as increased under clauses (i)(I), (ii)(I),  
3           and (iii)(I) and as further increased by the per-  
4           centage increase in the consumer price index for  
5           all urban consumers (United States city aver-  
6           age) as estimated by the Secretary for the 12-  
7           month period ending with December 31, 2009;  
8           and

9           “(II) 80 percent of the payment amount  
10          under paragraph (2)(A) for 2011.

11       “(C) For covered ambulatory surgical center services  
12       for which the 2007 ASC payment amount is—

13           “(i) greater than 75 percent, but less than 100  
14       percent, of the hospital OPD fee schedule amount  
15       under subsection (t) in 2007 for the same services,  
16       the amount of payment under this subsection shall  
17       be the greater of the 2007 ASC payment amount  
18       or—

19           “(I) for services furnished in 2008, the  
20       payment amount under subparagraph (B)(i);

21           “(II) for services furnished in 2009, the  
22       payment amount under subparagraph (B)(ii);

23           “(III) for services furnished in 2010, the  
24       payment amount under subparagraph (B)(iii);

1 “(IV) for services furnished in 2011, the  
 2 payment amount under subparagraph (B)(iv);  
 3 or

4 “(V) in 2012 and subsequent years, the  
 5 payment amount under subparagraph (A),  
 6 but in no case in excess of the then applicable hos-  
 7 pital OPD fee schedule amount; or

8 “(ii) greater than the hospital OPD fee sched-  
 9 ule amount under subsection (t) in 2007 for the  
 10 same services, the amount of payment under this  
 11 subsection—

12 “(I) for services furnished during 2008, is  
 13 equal to the midpoint between the 2007 ASC  
 14 payment amount and 100 percent of such 2007  
 15 hospital OPD fee schedule amount; or

16 “(II) for services furnished in a subsequent  
 17 year is equal to the greater of the 2007 hospital  
 18 OPD fee schedule amount or the payment  
 19 amount specified under subclause (I) through  
 20 (V) of clause (i) for the year involved, but but  
 21 in no case in excess of the then applicable hos-  
 22 pital OPD fee schedule amount.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 1832(a)(2)(F)(i) of such Act (42  
 25 U.S.C. 1395k(a)(2)(F)(i)) is amended—

1 (A) by striking “section 1833(i)(1)(A)”  
2 and inserting “section 1833(i)(1)”;

3 (B) by striking “the standard overhead  
4 amount as determined under section  
5 1833(i)(2)(A)” and inserting “the amount de-  
6 termined under section 1833(i)(2)”;

7 (C) by striking all that follows “as full  
8 payment for such services” and inserting “,  
9 or”.

10 (2) Section 1833(a)(1)(G) of such Act (42  
11 U.S.C. 1395l(a)(1)(G)) is amended—

12 (A) by striking “subsection (i)(1)(A)” and  
13 inserting “subsection (i)(1)”;

14 (B) by striking “for services furnished be-  
15 ginning” and all that follows through “sub-  
16 section (i)(2)(D)”;

17 (C) by striking “such revised payment sys-  
18 tem” and inserting “under subsection (i)(2)”.

19 (3) Section 1833(a)(4) of such Act (42 U.S.C.  
20 1395l(a)(4)) is amended—

21 (A) by striking “section 1833(i)(1)(A)”  
22 and inserting “subsection (i)(1)”;

23 (B) by striking “paragraph (2) or (3) of  
24 subsection (i)” and inserting “subsection  
25 (i)(1)”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to ambulatory surgical center serv-  
3 ices furnished on or after January 1, 2008.

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